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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,570	02/01/2002	John Keightley	024931-147	9660

7590 06/30/2004

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EXAMINER

STAFIRA, MICHAEL PATRICK

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/061,570

Applicant(s)

KEIGHTLEY, JOHN

Examiner

Michael P. Stafira

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on election filed 4/12/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 9 is/are rejected.
- 7) ☒ Claim(s) 2-4, 6-8 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 11-12 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 12, 2004.

### *Priority*

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on February 2, 2001. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claesson et al. ('029).

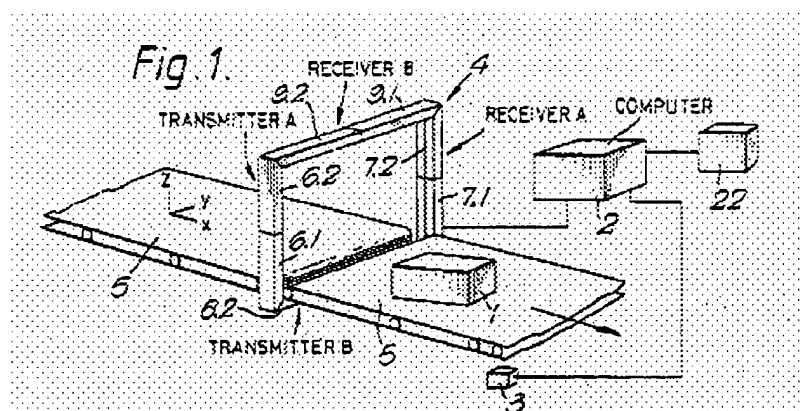
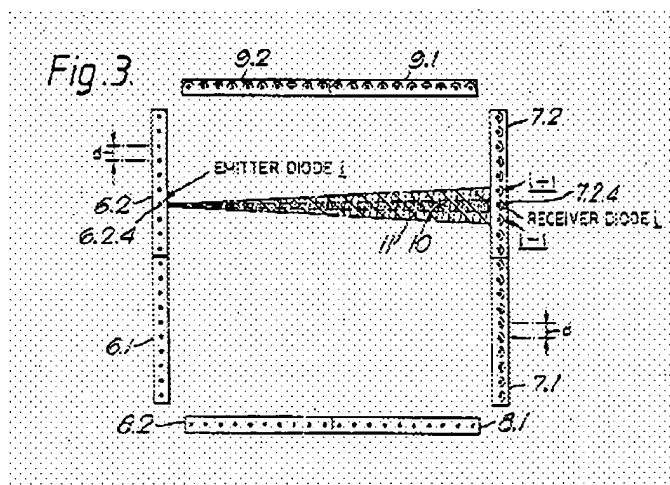
### **Claim 1**

Claesson et al. ('029) discloses a light source unit comprised of an emitter module that emits a laser sheet (Fig. 3, Ref. 6.2); a detector array comprised of a detector module (Fig. 3, Ref. 7.2), wherein said emitter module and said detector module are aligned (See Fig. 3); and a data processing unit (Fig. 1, Ref. 2); such that an object passing between said light source unit and said detector array (See Fig. 1, Ref. 1) can be measured to an accuracy of at least 4/100ths of

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an inch (Col. 15, lines 3-5) which is in the range disclosed by Claesson et al. ('029) being  $\pm 5$  mm.

Claesson et al. ('029) discloses the claimed invention except for disclosing the accuracy can be at 4/100ths of an inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Claesson et al. ('029) with accuracy since it was well known in the art that having an accuracy of 4/100ths gives the apparatus a suitable detail that is not expensive, therefore lowering the cost of the apparatus.

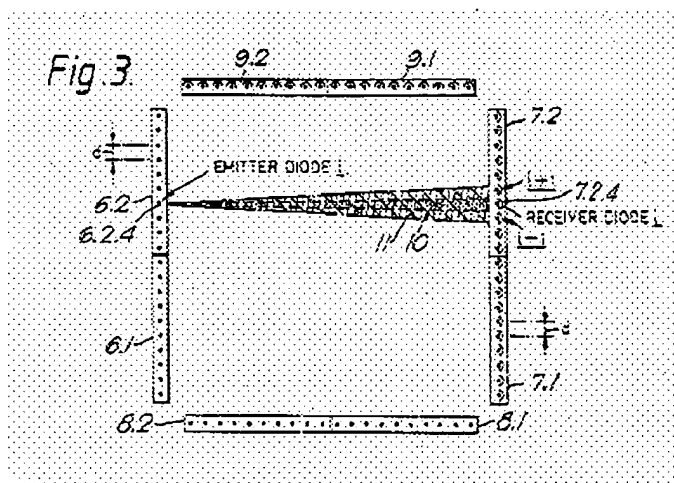


**Claim 5**

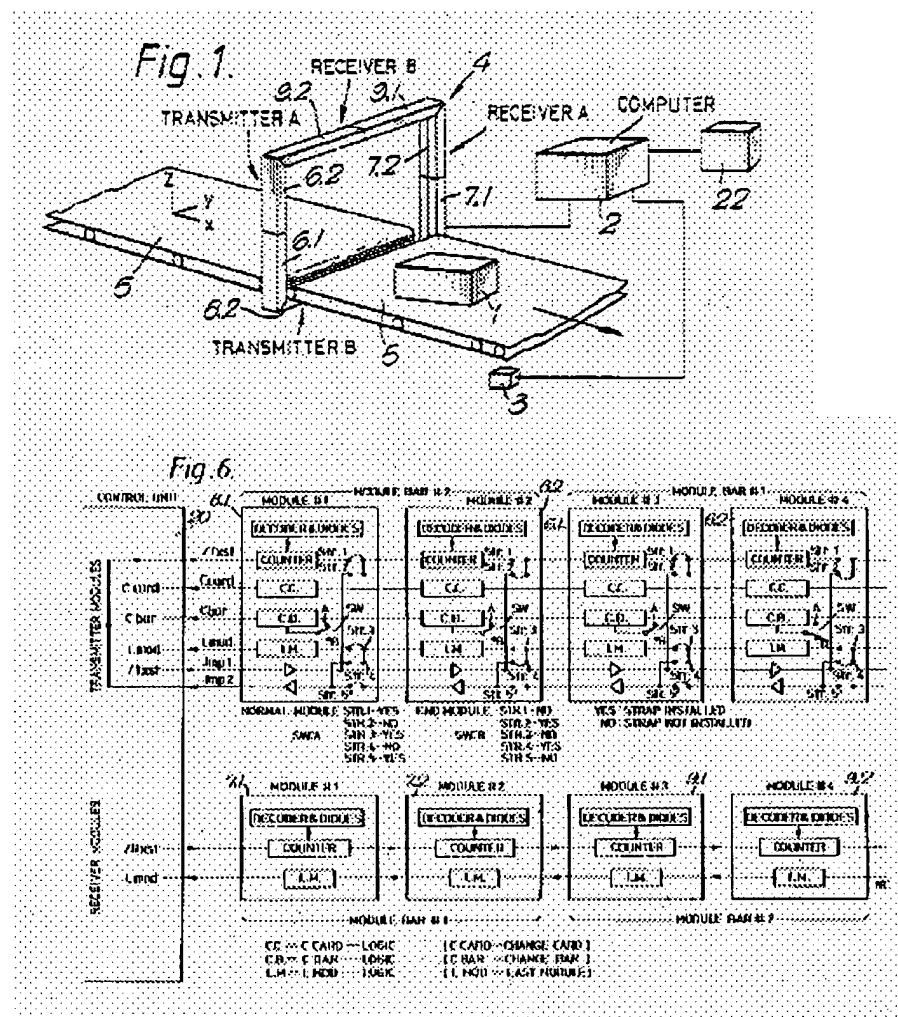
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Claesson et al. ('029) discloses a light source unit (Fig. 3, Ref. 6.2) comprised of a plurality of emitter modules (Fig. 3, Ref. 6.2.4) that combine to emit a laser sheet (See Fig. 3); a detector array (Fig. 3, Ref. 7.2) comprised of a plurality of detector modules (Fig. 3, Ref. 7.2.4) wherein each of said plurality of emitter modules and each of said plurality of detector modules are aligned (See Fig. 3); and one or more data processing units (See Fig. 6, Ref. 7.1, 7.2, Etc.); such that an object (Fig. 1, Ref. 1) passing between said light source unit and said detector array can be measured to an accuracy of at least 4/100ths of an inch (Col. 15, lines 3-5).

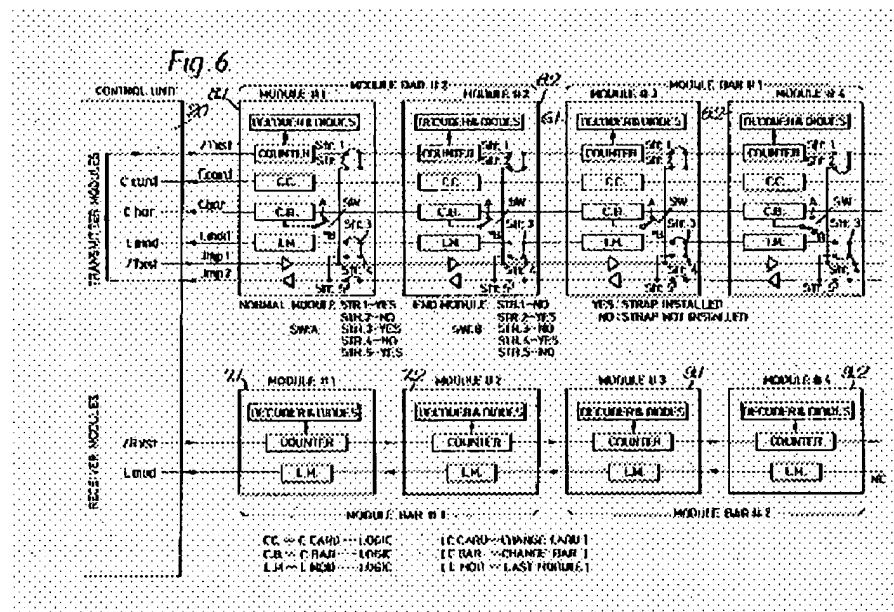
Claesson et al. ('029) discloses the claimed invention except for disclosing the accuracy can be at 4/100ths of an inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Claesson et al. ('029) with accuracy since it was well known in the art that having an accuracy of 4/100ths gives the apparatus a suitable detail that is not expensive, therefore lowering the cost of the apparatus.



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**Claim 9**

Claesson et al. ('029) further discloses the number of data processing units (Fig. 6, Ref. 7.1, 7.2, etc...) is equal to a fraction of the number of said detector modules such that each data processing unit provides data processing for a number of detector modules located adjacent to one another (See Fig. 6).



### Allowable Subject Matter


5. Claims 2-4,6-8,10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Stafira whose telephone number is 571-272-2430. The examiner can normally be reached on 4/10 Schedule Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael P. Stafira  
Primary Examiner  
Art Unit 2877

June 15, 2004